

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
ADDENDUM TO FINAL STATEMENT OF REASONS FOR PROPOSED
REGULATORY ACTION

Amend Sections 120 and 120.3
Title 14, California Code of Regulations
Re: Spot Prawn Trawling

V. Update:

(a) The following is provided to augment the information on summary and responses contained in the Final Statement of Reasons for Regulatory Action(FSR) .

1. The proposed addition of Section 120.45, Title 14, CCR regarding a program to convert spot prawn trawl permits to spot prawn trap permits was not adopted because the Commission did not have enough information to evaluate the possible impacts of the proposed program to the spot prawn resource.

2. The Department's response on page 3 of the FSR to 6 virtually identical electronic mail letters noted only that Option (4) included a prohibition on trawl gear and a conversion to traps. That conversion to traps (the proposed addition of Section 120.45, Title 14, CCR) was not adopted because the Commission did not have enough information to evaluate the possible impacts of the proposed program to the spot prawn resource.

3. The Department's response on page 4 of the FSR to Mr. Pete Dupuy's comments did not explain that his recommendation to adopt a moratorium on the issuance of new spot prawn trawl permits and a restriction on the size of foot rope roller gear was rejected because they would not provide the same level of protection to overfished species of rockfish as the option that the Commission did adopt, the prohibition on the use of trawl gear in the spot prawn fishery.

4. In comments summarized and responded to by Ms. Karen Reyna on page 6 and Mr. Barry Broad on page 12, both in the FSR, reference was made to "SB 326". That was a typographic error and the correct bill is SB 236. In addition to the responses already given we would add that the mere presence of an introduced bill does not provide a basis for either adopting or rejecting the proposed amendments.

5. The Department's response on page 7 of the FSR to Mr. Ilson New's letter of February 3, 2003 noted that the regulatory package included Option (2) to

require that all spot prawn trawl vessels participate in a contract observer program. The Commission did not adopt this option because it would not provide the same level of protection to overfished species of rockfish as the option that the Commission did adopt, the prohibition on the use of trawl gear in the spot prawn fishery.

6. The Department's response on pages 7 and 11 of the FSR to Mr. Ilson New's testimony at the February 6 and 18, 2003 Commission meetings referred to "previous trawl studies" and "previous trawl bycatch studies" but did not identify any particular studies. Item seven (7) in the File Index is a Memo with attachments from Mike Weber, Marine Advisor to the Commission, dated 3 February 2003. This Memo includes a summary of the concerns regarding the effects of trawling in general and shrimp and prawn trawling in particular. The attachments summarize the results of 11 studies in California regarding Bycatch in spot prawn fisheries and list the discarded weight per landed target catch weight in twenty global fisheries. This memo was not a document relied upon but was prepared in response to Mr. New's comments on the inadequacies of the Department's report "Results of California Department of Fish and Game Spot Prawn Trawl and Trap Fisheries Bycatch Observer Program 200-2001". This memo was in the file and available to the public beginning February 3, 2003.

7. The Department's response on page 8 of the FSR to Mr. Gordon Fox's testimony at the February 6, 2003 Commission meeting noted that all his recommendations were contained in the regulatory package, but did not specify that they were not adopted by the Commission because they would not provide the same level of protection to overfished species of rockfish as the option that the Commission did adopt, the prohibition on the use of trawl gear in the spot prawn fishery.

8. The Department's responses on pages 9 and 10 of the FSR to Mr. Zeke Grader's and Mr. Mike McCorkle's testimony at the February 6, 2003 Commission meeting simply noted that their recommendation to exclude Santa Barbara area trawlers from the proposed prohibition on the use of trawl nets to take spot prawns was not contained in the regulatory package. In addition the Commission did not adopt that exemption or exclusion for Santa Barbara area trawlers because that would not provide the same level of protection to overfished species of rockfish as the option that the Commission did adopt, the prohibition on the use of trawl gear in the spot prawn fishery.

9. Mr. Ilson New, in his February 3, 2003 letter to the Commission wrote "As to the Reilly Geibel "Report" the December 20, 2002 meeting, Commissioner Chrisman commented to the undersigned after the undersigned expressed the

fairness in the Department contributing to the cost of the survey as a “matter of fairness” based upon the defective Department report.” Now that’s only your opinion. Now they feel their Report is pretty accurate.”

Department Response: The question of the Department contributing to the cost of the survey was rendered moot when the Commission rejected the option that would have provided for another survey because that option would not provide the same level of protection to overfished species of rockfish as the option that the Commission did adopt, the prohibition on the use of trawl gear in the spot prawn fishery.

(b) The following is a listing of nonsubstantive changes made to the final corrected regulatory text.

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| 1. Subsection (h) of Section 120 | Change in regulatory text which referenced Section 8210 of the Fish and Game Code. This section was repealed in 2002 and the text is amended to reflect the proper Section 8210.2. |
| 2. Section 120 Auth/Ref Citations | Authority and Reference sections are corrected to match the current CCR. |
| 3. Subsection (d) <u>(c)</u> of Section 120.3 | The missing sentence about cowcod closure areas is added to match the current CCR. |
| 4. Subsection (e) <u>(d)</u> (1) of Section 120.3 | The regulatory text has been corrected to match the current CCR. |
| 5. Subsection (h) <u>(g)</u> of Section 120.3 | Change in regulatory text which referenced Section 8396 of the Fish and Game Code. This section was repealed in 1996 and the text is amended to reflect the proper Section 8405. |
| 6. Subsections (i) <u>(h)</u> , (j) <u>(i)</u> and (k) <u>(j)</u> of Section 120.3. | The three missing subsections are added. |
| 7. The existing titles, “Section 120. Prawn or Shrimp Trawling” and “Section 120.3. Golden Prawn (<i>Penaeus Californiensis</i>), Spot Prawn (<i>Pandalus Platyceros</i>) and Ridgeback Prawn (<i>Eusicyonia Ingentis</i>) Trawling.” were | |

added to the regulatory text.

(c) "Results fo the California Department of Fish and Game Spot Prawn Trawl and Trap Fisheries Bycatch Observer Program 2000-2001" was available to the public during the entire rulemaking and public comments were received on this study. This study was inadvertently omitted when the file was submitted to OAL.